

ORIGINAL

VAN DE VELD SHIMIZU CANTO & FISHER
De La Corte Building, Suite 101
167 East Marine Corps Drive
Hagåtña, Guam 96910
Tel.: 671.472.1131
Fax: 671.472.2886

Attorneys for Defendant: KUANG HUA CHEN

FILED
DISTRICT COURT OF GUAM
MAY 15 2006
MARY L.M. MORAN
CLERK OF COURT

UNITED STATES DISTRICT COURT
DISTRICT OF GUAM

UNITED STATES OF AMERICA

Plaintiff,

vs.

KUANG HUA CHEN,

Defendant.

Criminal Case No. CR-04-00008

**MOTION TO CONTINUE TRIAL AND
DECLARATION OF COUNSEL.**

COMES NOW counsel for Defendant KUANG HUA CHEN, VAN DE VELD SHIMIZU CANTO & FISHER, by Curtis C. Van de veld, Esq., to 18 U.S.C. §3161 to continue trial of the above captioned matter for a period of three weeks upon the grounds of the interests of justice for the reasons more fully set forth infra in the Declaration of Counsel. Counsel has previously discussed this motion with Defendant KUANG HUA CHEN and informed Defendant of the nature of the motion and that counsel would be seeking a trial in June due to counsel's trial schedule. Mr. Chen has indicated that he does not object to the motion. Counsel has further discussed this matter with Assistant United States Attorney Marivic P. David who has informed counsel that she does not oppose the motion.

Title 18 U.S.C. §3161, provides in relevant part:

UNITED STATES OF AMERICA, Plaintiff v. KUANG HUA CHEN, Defendant
MOTION TO CONTINUE TRIAL AND DECLARATION OF COUNSEL
Criminal Case No. CR-04-00008

Case 1:04-cr-00008 Document 45 Filed 05/15/2006 Page 1 of 4

1 (h) The following periods of delay shall be excluded in computing the time within
2 which an information or an indictment must be filed, or in computing the time within
3 which the trial of any such offense must commence:

4
5 (8)(A) Any period of delay resulting from a continuance granted by any judge on his
6 own motion or at the request of the defendant or his counsel or at the request of the
7 attorney for the Government, if the judge granted such continuance on the basis of his
8 findings that the ends of justice served by taking such action outweigh the best interest
9 of the public and the defendant in a speedy trial. No such period of delay resulting
10 from a continuance granted by the court in accordance with this paragraph shall be
11 excludable under this subsection unless the court sets forth, in the record of the case,
12 either orally or in writing, its reasons for finding that the ends of justice served by the
13 granting of such continuance outweigh the best interests of the public and the
14 defendant in a speedy trial.
15

16 STATEMENT OF FACTS AND DECLARATION OF COUNSEL

17 I, Curtis C. Van de veld, Esq., hereby declare and state under penalty of perjury as
18 follows:
19

20 I am a member of the Criminal Justice Panel and have served the court in this
21 capacity since its inception in 1993. Today starts the second week of a trial of a Defendant
22 involving nearly one thousand pages of discovery and numerous exhibits. The trial is
23 expected to conclude this week. Two weeks ago, I was in a trial before the Superior Court of
24 Guam on a preliminary hearing for one week which involved several hundreds of pages of
25 pleadings, declarations and discovery. That trial ended the court day prior to the commence of

1 the trial I am presently involved in before the District Court Of Guam. The two weeks prior to
2 that, I was extremely ill with influenza for two weeks. The trial of Defendant Chen involves a
3 Defendant who is unable to communicate with counsel without the assistance of an
4 interpreter. Due to my illness and other trials, I have not been able to communicate with Mr.
5 Chen to prepare for trial. I have reviewed the discovery in this case and based on sixteen years
6 of practicing law, I believe that I will need the remainder of this week and two weeks
7 thereafter to prepare for the trial of Mr. Chen, so that I can adequately prepare and render
8 effective and prepared assistance to Mr. Chen.
9

10 I have discussed this motion with the Defendant previously and informed him that
11 due to my then existing schedule I anticipated that I could not be ready for trial until June
12 2006, he told me he did not object to the continuance. I have further discussed this matter with
13 Assistant United States Attorney Marivic P. David who has informed me that she does not
14 object to the motion.
15

16 I ask the court to give me time to adequately prepare, considering that the only way
17 that counsel can communicate with the Defendant is through the use of an interpreter and due
18 to counsel's latest work burdens.
19

20 DATED: this Wednesday, February 15, 2006.

21 **VAN DE VELD SHIMIZU CANTO & FISHER**

22 By: 

23 Mr. Curtis C. Van de veld, Esq.
24 Attorney for Defendant
25 KUANG HUA CHEN

CERTIFICATE OF SERVICE

I, Curtis C. Van de veld, hereby declare that today I caused a copy of this motion to be served to Assistant United States Attorney Marivic P. David, at the Office of the United States Attorney for the District of Guam, Serena Plaza, Hernan Cortes Ave., Hagatna, Guam.

DATED: this Wednesday, February 15, 2006.

VAN DE VELD SHIMIZU CANTO FISHER

By:

Mr. Curtis C. Van de veld, Esq.
Attorney for Defendant
KUANG HUA CHEN

CCV:jwc
VSCF/K.H. CHEN/CR00